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Attorneys for Plaintiff David Munives

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

MELISSA A. MOPOSITA

Plaintiff,

vs.

HL MOTOR GROUP, INC., et als.

Defendants.

Civil Action No. 2:21-cv-18216

DAVID MUNIVES

Plaintiff,

vs.

HL MOTOR GROUP, INC., SCOTT E.
HORACE, MELISSA MOPOSITA,
JAVIER MUNIVES-CAVERO, JOHN
DOE 1-10 (fictitiously named), and ABC
CORP. 1-10 (fictitiously named)

Defendants.

MOTION TO REMAND

The Plaintiff, David Munives, by his attorneys at Raff & Raff, LLP, moves this Court to remand this cause to the Superior Court of New Jersey, Bergen County, from which Court it was attempted to be removed to this Court. In support of this Motion, the plaintiff states as follows:

1. Plaintiff David Munives filed a Complaint in the Superior Court of New Jersey, Bergen County, against Defendants, HL Motor Group, Inc., Scott E. Horace, Melissa Moposita, and Javier Munives-Cavero, on June 2, 2021, BER-L-3582-21. See Ex. A.

2. This matter arises out of personal injuries sustained by Plaintiff David Munives while riding as a passenger in a vehicle owned by Defendant Javier Munives-Cavero and operated by Defendant Melissa Moposita, when it was struck by a commercial truck owned by HL Motor Group, Inc. and operated by Defendant Scott E. Horace. The location of the motor vehicle collision was in New Jersey.

3. As noted by defense counsel, Melissa Moposita, as a Plaintiff, filed a Complaint on June 10, 2021, also in the Superior Court of New Jersey, Bergen County. See Defendant HL Motor Group Ex. A.

4. On August 27, 2021, the two complaints were consolidated. See Defendant HL Motor Group Ex. C.

5. At the time of the filing of the Complaint, Plaintiff David Munives resided in was a citizen of the State of New Jersey (specifically Lodi, NJ). Also at the time of the filing of the Complaint, Defendant Melissa Moposita resided in and was also citizen of the State of New Jersey (specifically Ridgefield Park, NJ). Defendant Moposita is now a citizen of Colorado. Defendant Javier Munives-Cavero also was a citizen of and remains to be a citizen of the State of New Jersey (specifically Lodi, NJ). Defendant Munives-Cavero was served with the Summons and Complaint on or about July 21, 2021 at his New Jersey address. See Exhibit B.

6. While Defendants HL Motor Group, Inc. and Horace are not citizens of New Jersey, there is NOT complete diversity as Defendant Moposita was, at the time of filing a New Jersey resident, and Defendant Munives-Cavero, was and remains a New Jersey resident.

7. Therefore, subject matter jurisdiction based upon diversity of citizenship, contained in 28 U.S.C.A. Sect. 1332, is lacking in this action.

8. As the U.S. Supreme Court noted in *Grupo Dataflux v. Atlas Global Group, L.P.*, 541 U.S. 567 (Supreme Court 2004), "It has long been the case that "the jurisdiction of the court depends upon the state of things at the time of the action brought." *Mullan v. Torrance*, 9 Wheat. 537, 539 (1824). This time-of-filing rule is hornbook law (quite literally)." Regardless, however, one of the Defendants remains a citizen of New Jersey.

8. Accordingly, Plaintiff hereby seeks remand of this action to state court, pursuant to 28 U.S.C. §1447.

9. I have the consent of defense counsel for Moposita and Munives-Cavero and the consent of plaintiff's counsel for Moposita to file this motion.

WHEREFORE, the plaintiff David Munives respectfully requests that this Court remand this consolidated action to the Superior Court of New Jersey, Bergen County.

Respectfully Submitted,
Raff & Raff, LLP

Dated: 10/19/2021

BY: _____
Michael S. Raff, Esq.



CERTIFICATE OF SERVICE

Michael S. Raff, Esq., hereby certifies that a true and correct copy of Plaintiff's Motion to Remand was served by United States first class, postage prepaid and email on the 19th day of October 2021, to the counsel below named:

Via Email: Kenneth.Foreman@lewisbrisbois.com
Ken Foreman, Esq.
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Via Email: NJHCMailbox@Progressive.com
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Via email: rcpapa@corradinoandpapa.com
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Corradino & Papa
955 Allwood Road
Clifton, New Jersey 07012

Raff & Raff, LLP

Dated: 10/19/2021

BY: _____
Michael S. Raff, Esq.

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Defendants.

ORDER

AND NOW, this _____ day of _____, 2021, upon consideration of Plaintiff Munives's Motion for Remand, and any responses thereto, it is hereby ordered that Plaintiff's Motion is GRANTED. This matter is hereby remanded to the Superior Court of New Jersey, Bergen County.

BY THE COURT: